IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED; 13-12-2004

CORAM;

THE HONOURABLE MR.JUSTICE P.K.MISRA
and
THE HONOURABLE MR.JUSTICE S.ASHOK KUMAR

W.P.NOs.12840 of 2002 and 33162 of 2002
and
W.P.M.P.Nos.17279 of 2002 and 49188 of 2002

In W.P.No.12840/2002
K.Ramalingam ..Petitioner

vs

1.The Secretary to Government
Food, Cooperation and Consumer
Protection Department
Chennai 9

2.The Registrar
Tamil Nadu Administrative Tribunal
Chennai ..Respondents

In W.P.No.33162/2002

K.Ramalingam ..Petitioner

vs

1.The Secretary to Government
Department of Co-operation
Food and Consumer Protection Department
Chennai 9

2.The Director of Industries Commissioner and
Director of Industries and Commerce
Chepauk, Chennai 5

3.The Joint Director-Cum-General Manager
District Industry Centre
Salem 4

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4.The Registrar
Tamil Nadu Administrative Tribunal
Chennai ..Respondents

W.P.No.12840/2002 filed under Article 226 of the Constitution of India praying for the issue of writ of Certiorari to call for the records in pursuant to the order dated 5.11.2001 in O.A.No.3319/99 passed by the Hon'ble Tamil Nadu Administrative Tribunal and quash the same.

W.P.No.33162/2002 filed under Article 226 of the Constitution of India praying for the issue of writ of Certiorari to call for the records in pursuant to the order dated 27.11.2001 in O.A.No.7672/99 passed by the Hon'ble Tamil Nadu Administrative Tribunal and quash the same.

For petitioner in both the W.Ps :Mr.S.M.Subramaniam
For respondents in both the W.Ps :Mr.S.Gomathinayagam
Spl.G.P.

.....

COMMON ORDER

(Order of the Court was made by P.K.MISRA,J.)

Heard Mr.S.M.Subramaniam, learned counsel for the petitioner and Mr.S.Gomathinayagam, learned Special Government Pleader for the respondents.

2.These two writ petitions are filed against the similar orders passed by the Tamilnadu Administrative Tribunal in the two Original Applications filed by the very same writ petitioner. The petitioner has challenged the disciplinary proceedings initiated against him. The Tribunal considered the matter and refused to interfere. Hence, the present writ petitions have been filed.

3.The main contention of the petitioner is to the effect that the proceedings should not have been initiated by the Secretary to Government in Department of Co-operation, Food and Consumer Protection inasmuch as the petitioner was employed under the Industrial Department. This submission has, however, been refuted by the learned Special Government Pleader who has contended that the proceedings were initiated by the Secretary to Government in Department of Co-operation by invoking proviso to Rule 9(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

4.Rule 9(a) is extracted hereunder:

'Authority Competent to institute disciplinary proceedings

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where more than one Government servant is involved.

> In any case where more than one Government servant of the same department are involved, the authority competent to institute disciplinary proceedings and impose any of the penalties specified in Rule 8 shall be the authority in that Department in respect of the Government servant who holds the highest post and the disciplinary proceedings against all of them shall be taken together:
>
> Provided that in the case of Government servants belonging to different departments who are jointly involved or whose cases are interconnected, the Government shall be the authority competent to initiate disciplinary proceedings and impose any of the penalties specified in Rule 8 and in such cases the administrative department of Secretariat in respect of the Government servant who holds the highest post will initiate such disciplinary proceedings and issue final orders after complying with the entire procedure laid down in these rules :
>
> Provided further that this rule shall not apply to cases in which officers coming under the administrative control of the Chief Secretary to Government are jointly involved.'

5.It appears that the proceeding were initiated against the petitioner and a few others of the Co-operative Department and since one Paulraj, Joint Registrar of Co-operative Societies was also one of the delinquents holding superior post compared to the present petitioner. The proceeding has been rightly initiated by the Secretary to Government in Department of Co-operation. The first contention is, therefore, rejected.

6.Learned counsel for the petitioner further contented that infact, profit was earned by the society of which the petitioner was the Special Officer and as such, the departmental proceedings should not have been initiated. It is also submitted that as a matter of fact, charges against some delinquents have been dropped by the Government by subsequent G.Os.

7.We are not inclined to examine the validity of such contention, as in our opinion, this contention can be raised before the disciplinary authority who can go into the matter on the basis of the materials on record and come to any particular conclusion and we

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do not express any opinion on this aspect. Therefore, we are not inclined to interfere with the disciplinary proceedings. It is made clear that non-interference by the High Court should not be construed as expressing any opinion regarding the liability of the present petitioner and the disciplinary proceedings has to be decided on its own merits in accordance with law on the basis of the materials on record. It is also made clear that it would be open to the petitioner to raise all contentions before the disciplinary authority.

8.The counsel for the petitioner submits that the petitioner is about to reach the age of superannuation at the end of this month. Having regard to the facts and circumstances of this case, we expect that the disciplinary proceedings should be finalised as expeditiously as possible, preferably, within a period of six months from the date of communication of the order.

9.The Writ Petitions are disposed of subject to the aforesaid observation. Consequently, connected pending W.P.M.Ps are also disposed of. No costs.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Secretary to Government
Food, Co-operation and Consumer
Protection Department
Chennai 9

2.The Secretary to Government
Department of Co-operation
Food and Consumer Protection Department
Chennai 9

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Salem 4

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Tamil Nadu Administrative Tribunal
Chennai

+ 1 CC to the Govt. Pleader (SR No.54882)

+ 2 Ccs to Mr.S.M.Subramaniam, Advocate (SR No.54866)

W.P.NOs.12840&33162/2002
& W.P.M.P.Nos.17279&49188/
2002

13-12-2004

CPN (CO)
EJ

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